



**CALFEE, HALTER & GRISWOLD LLP**

ATTORNEYS AT LAW

Cleveland

Direct Dial No. 216/622-8479

e-mail: sstrom@calfee.com

US EPA RECORDS CENTER REGION 5



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APR 04 2001

April 3, 2001

**VIA FEDERAL EXPRESS**

U.S. Environmental Protection Agency  
Ms. Deena Sheppard-Johnson, SR-6J  
Remedial Enforcement Support Section  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Re: Chemical Recovery Systems Site, Elyria, Ohio - Response of Adelphia, Inc.  
to CERCLA § 104(e) Request for Information

Dear Ms. Sheppard-Johnson:

Forest City Technologies, Inc. ("Forest City") has received a General Notice of Potential Liability and Request for Information ("Notice") addressed to Adelphia, Inc. ("Adelphia") regarding the Chemical Recovery Systems Site, in Elyria, Ohio (the "Site").<sup>1</sup> By letter dated March 23, 2001, Adelphia responded to the General Notice portion of the Notice.<sup>2</sup> The purpose of this letter is to provide responses on behalf of Adelphia to the CERCLA § 104(e) Request for Information portion of the Notice addressed to Adelphia.

As a preliminary matter, Adelphia objects to the Requests for Information to the extent that they exceed U.S. EPA's authority under CERCLA § 104(e). In particular, Adelphia objects

<sup>1</sup> Forest City is not sure what date it received the Notice. However, Forest City believes that it did not receive the Notice before March 5, 2001.

<sup>2</sup> As indicated in its March 23, 2001 letter, Forest City acquired the stock of Adelphia Incorporated on August 31, 1999. However, Forest City does not admit, nor should these responses to the CERCLA § 104(e) Request for Information in any way be construed as or deemed to be an admission, that Forest City is responsible for any waste that may have been disposed of by Adelphia at the Site, which ceased operations more than 17 years before Forest City acquired Adelphia.

**CALFEE, HALTER & GRISWOLD LLP**

Ms. Deena Sheppard-Johnson

April 3, 2001

Page 2

to Instruction No. 6, which directs Adelphia to supplement its responses, and Instruction No. 9, which requires Adelphia to certify its responses. Furthermore, Adelphia objects that the Requests for Information regarding "materials" and "hazardous materials" are vague, in that such terms are not defined, and overbroad, to the extent that they seek information on substances that are not regulated under CERCLA. Notwithstanding these objections, Adelphia has conducted an investigation of reasonably available information and documents and believes that its responses are accurate and complete as of the time of their submission.

Briefly, Adelphia's investigation did not reveal any information indicating that it arranged for treatment or disposal or arranged for transportation for disposal or treatment of any hazardous substances at the Site. Adelphia's responses are as follows:

1. Robert P. Lichman, Environmental Health & Safety Director  
Brian Bass, Hazardous Materials Specialist  
Fred Payton, Applications Specialist  
Forest City Technologies, Inc.  
299 Clay Street, P. O. Box 86  
Wellington, Ohio 44090

Brian Jay, Plant Engineer  
Scott Shays, Plant Manager  
Larry Payton, Production Supervisor  
Joan Walentynowicz, Assistant Controller  
Forest City Technologies, Inc.-Adelphia  
15657 Brookpark Rd.  
Cleveland, Ohio 44142

Jack Gibson, Territory Sales Manager  
Mark Cawthorne, Vice President  
American Waste Management Services, Inc.  
One American Way  
Warren, Ohio 44484

2. Adelphia reviewed its files but was unable to locate any records regarding waste shipments, including manifests or transport bills, dated earlier than 1987. Adelphia also checked to see if it has any customer payable records and other financial records from the relevant time period. However, Adelphia does not maintain any such records from earlier than 1992. Accordingly, Adelphia was not able to consult or examine any documents in connection with the preparation of these responses.

**CALFEE, HALTER & GRISWOLD LLP**

Ms. Deena Sheppard-Johnson

April 3, 2001

Page 3

3. The following persons may be able to provide a more detailed or complete response to the questions or to provide responsive documents:

Harry Thomas

Owner of Adelphia (1974-late 1980s)/Owner of real property on which Adelphia is located (dates unknown)

[REDACTED]

Angelo Mango

Adelphia Plant Manager (1982-1987)

Address unknown

Ed Davis

Adelphia Plant Manager (mid-1970s-early 1980s)

Address unknown

4. Adelphia's EPA Identification Number is OHD049386436.

5. Adelphia is unaware of any acts or omissions of any person who may have caused the release or threat of a release of hazardous substances, pollutants or contaminants or any damages resulting therefrom at the Site.

6. Except as set forth in its response to Questions 1 and 3, Adelphia has no information regarding the identity of persons who have knowledge or information about the generation, use, treatment, storage, disposal or other handling of material at or transportation of material to the Site.

7. Adelphia was unable to locate any information to indicate that Adelphia had any "arrangements" with any of the companies or persons listed in Question No. 7. Although U.S. EPA has provided copies of four "Dirty Inventory" lists which identify Adelphia with respect to 10 drums of toluene on May 3 (apparently, 1977) and 15 drums of toluene October 3 (apparently, 1980), Adelphia did not locate any documents to confirm that Adelphia shipped any materials to the Site.

8. Adelphia is unaware that it generated hazardous materials that were sent to the Site. Furthermore, with the possible exception of the material described in No. 7 above, Adelphia has no information that indicates that it transported any material to the Site.

**CALFEE, HALTER & GRISWOLD LLP**

Ms. Deena Sheppard-Johnson

April 3, 2001

Page 4

9. Based on its investigation, Adelphia is not aware that it ever arranged for disposal or treatment or arranged for transportation for disposal or treatment of any materials at the Site, nor is Adelphia aware of any other person who might have done so.

10. Given that there is no documentation which establishes that Adelphia arranged for treatment or disposal of any hazardous substance at, or transport for treatment or disposal of any hazardous substance to, the Site, Adelphia believes that U.S. EPA's request for copies of all liability insurance policies held from 1960 to the present is irrelevant, premature and unduly burdensome. If U.S. EPA provides information which reasonably supports its position that Adelphia is a "responsible party" under CERCLA with respect to the Site, Adelphia would be willing to reconsider its response to this question.

11. With respect to U.S. EPA's request for copies of all income tax returns for the last five years, Adelphia incorporates by reference its response to Question No. 10.

12. With respect to U.S. EPA's request for copies of Adelphia's articles of incorporation and by-laws, financial statements for the past five years, identification of all of Adelphia's current assets and liabilities and the person(s) responsible for such assets and liabilities and the identity of Adelphia's parent corporation and all subsidiaries, Adelphia incorporates by reference its response to Question No. 10.

13. Not applicable.

14. Not applicable.


In conclusion, neither the investigation undertaken by Adelphia nor the information provided by U.S. EPA establishes that Adelphia is responsible for response costs at the Site. Accordingly, Adelphia respectfully requests that U.S. EPA reconsider its decision to name Adelphia as a potentially responsible party with respect to the Site and submits that it should have no liability under CERCLA associated with the Site.

**CALFEE, HALTER & GRISWOLD LLP**

Ms. Deena Sheppard-Johnson  
April 3, 2001  
Page 5

Thank you for your consideration. If you have any questions regarding these responses, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Susan R. Strom".

Susan R. Strom

cc: Mr. Robert P. Lichman  
Thomas Nash, Esq.  
Kevin P. Hallquist, Esq.  
David J. Crandall, Esq.